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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,077	12/15/2003	Leon A. Pintsov	F-708	3243

7590 07/10/2009

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/10/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/736,077	Applicant(s) PINTSOV ET AL.	
	Examiner JOSHUA MURDOUGH	Art Unit 3621	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 17 April 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621

Continuation of 10. Other (including any explanation in support of the above items): Continuation of 2: Point (a) under the Status of Claims states claims 1-5, 7-16, and 18-20 are in the application. However, point (b) says claims 21-26 have been withdrawn. Therefore, claims 21-26 are still in the application, but have not been examined.

Continuation of 4: On page 26, lines 24-26 state "[t]he portions of Appellant's invention claimed in claim 12, that has not been set forth above are shown in paragraphs 0031 to 0052 of page 11 to page 20." This is not a concise explanation of the subject matter defined in the independent claim nor does it refer to the specification by page and line number, and to the drawing, if any, by reference characters as required by 37 CFR 41.37(c)(1)(v).

Continuation of 10: Appellants have included in appendix VIII claims that were presented after the final rejection and not entered by the Examiner. As per 37 CFR 41.37(c)(2), "A brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence."

The Examiner notes that certain non-appealable issues have been argued (e.g. objection to the drawings for new matter). Applicant is respectfully requested to only include appealable issues in this appeal.